

CHAPTER 347

PUBLIC UTILITIES

HOUSE BILL 94-1251

BY REPRESENTATIVES Moellenberg, Acquafresca, Eisenach, Entz, Foster, Jerke, and Pfiffner;
also SENATORS Mutzebaugh, Ament, R. Powers, and Rizzuto.

AN ACT

CONCERNING AN EXEMPTION FROM THE "PUBLIC UTILITIES LAW" FOR CARRIERS OF SLUDGE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 40, Colorado Revised Statutes, 1993 Repl. Vol., is amended
BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 16.5
Carriers of Sludge

40-16.5-101. Definition. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
OTHERWISE REQUIRES:

(1) "CARRIERS OF SLUDGE" MEANS MOTOR VEHICLE CARRIERS PROVIDING THE
TRANSPORTATION FOR HIRE OF:

(a) BIOSOLIDS, AS DEFINED IN SECTION 25-8-103 (1.4), C.R.S.;

(b) THE SLUDGE RESIDUE RESULTING FROM THE DRINKING WATER TREATMENT
PROCESS;

(c) THE SLUDGE RESIDUE RESULTING FROM PROCESSES USED TO MANUFACTURE
FOOD PRODUCTS, INCLUDING ANIMAL PACKING HOUSES;

(d) THE SLUDGE RESIDUE RESULTING FROM PHARMACEUTICAL TREATMENT
PROCESSES; OR

(e) THE SLUDGE RESIDUE RESULTING FROM ANY INDUSTRIAL PROCESS, INCLUDING

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE BREWING OF ALCOHOLIC BEVERAGES.

40-16.5-102. Control of carriers of sludge - permit required.

(1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS TITLE, CARRIERS OF SLUDGE ARE SUBJECT TO REGULATION TO THE EXTENT PROVIDED IN THIS ARTICLE.

(2) NO CARRIER OF SLUDGE SHALL OPERATE ANY MOTOR VEHICLE FOR THE TRANSPORTATION OF SLUDGE WITHOUT FIRST HAVING OBTAINED A PERMIT FROM THE COMMISSION; EXCEPT THAT THE CARRIER SHALL NOT BE REQUIRED TO PROVE THAT THE PRESENT OR FUTURE PUBLIC CONVENIENCE AND NECESSITY REQUIRES OR WILL REQUIRE SUCH OPERATION.

40-16.5-103. Permit requirements. NO PERSON MAY OFFER SERVICES PURSUANT TO THIS ARTICLE UNLESS SUCH PERSON IS REGISTERED WITH AND GRANTED A PERMIT AS A CARRIER OF SLUDGE FROM THE PUBLIC UTILITIES COMMISSION OF THIS STATE. SUCH REGISTRATION SHALL INCLUDE THE NAME AND ADDRESS OF THE REGISTRANT AND PROOF OF INSURANCE AS REQUIRED BY SECTION 40-16.5-104. THE PUBLIC UTILITIES COMMISSION SHALL REVOKE THE REGISTRATION OF ANY PERSON NOT COMPLYING WITH THE INSURANCE AND SAFETY REQUIREMENTS OF THIS ARTICLE UNTIL THE PERSON ATTAINS SUCH COMPLIANCE. IN ADDITION, THE PUBLIC UTILITIES COMMISSION SHALL REVOKE THE REGISTRATION OF ANY PERSON WHO FAILS TO MAINTAIN WITH THE PUBLIC UTILITIES COMMISSION THE NAME AND ADDRESS OF THE AGENT OF SUCH PERSON UPON WHOM ANY PROCESS, NOTICE, OR DEMAND REQUIRED OR PERMITTED BY LAW TO BE SERVED UPON THE PERSON MAY BE SERVED.

40-16.5-104. Insurance requirements. (1) EACH CARRIER OF SLUDGE SHALL MAINTAIN A GENERAL LIABILITY INSURANCE POLICY, OR, IF SUCH CARRIER IS A PUBLIC ENTITY, A CERTIFICATE OF SELF-INSURANCE IN LIEU THEREOF, ISSUED PURSUANT TO SECTION 42-7-501, C.R.S., AT THE OPTION OF THE PUBLIC ENTITY. SUCH AN INSURANCE POLICY SHALL BE ISSUED BY AN INSURANCE CARRIER OR INSURER AUTHORIZED TO DO BUSINESS IN COLORADO FOR EACH MOTOR VEHICLE OF SUCH CARRIER, AND SUCH CERTIFICATE OF SELF-INSURANCE SHALL BE ISSUED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. SUCH LIABILITY INSURANCE SHALL BE MAINTAINED IN THE MINIMUM AMOUNT OF SEVEN HUNDRED FIFTY THOUSAND DOLLARS COMBINED SINGLE LIMIT LIABILITY.

(2) EACH CARRIER OF SLUDGE SHALL MAINTAIN WITH THE PUBLIC UTILITIES COMMISSION OF THIS STATE ADEQUATE WRITTEN DOCUMENTATION THAT SUCH CARRIER MAINTAINS A GENERAL LIABILITY INSURANCE POLICY, OR FOR PUBLIC ENTITIES A CERTIFICATE OF SELF-INSURANCE, IN ACCORDANCE WITH THIS SECTION. NO TERMINATION OF SUCH INSURANCE POLICY SHALL BE VALID UNLESS THE INSURER HAS NOTIFIED THE HOLDER OF THE POLICY AND THE PUBLIC UTILITIES COMMISSION OF THIS STATE AT LEAST THIRTY DAYS PRIOR TO SUCH TERMINATION.

40-16.5-105. Safety requirements. A CARRIER OF SLUDGE SHALL COMPLY WITH MOTOR CARRIER SAFETY RULES PROMULGATED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO SECTION 40-2-116.

40-16.5-106. Enforcement. THE PUBLIC UTILITIES COMMISSION OF THIS STATE, THE COLORADO STATE PATROL, AND THE PORTS OF ENTRY DIVISION OF THE DEPARTMENT OF REVENUE SHALL MONITOR THE COMPLIANCE OF PERSONS OFFERING

SERVICES PURSUANT TO THIS ARTICLE WITH THE REQUIREMENTS OF THIS ARTICLE AND SHALL ENFORCE SUCH REQUIREMENTS.

40-16.5-107. Violations - penalties. (1) ANY CARRIER OF SLUDGE WHO OPERATES A MOTOR VEHICLE FOR ITS BUSINESS IN VIOLATION OF ANY PROVISION OF THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(2) EACH DAY IN WHICH A CARRIER OF SLUDGE OPERATES A MOTOR VEHICLE FOR ITS BUSINESS IN VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL CONSTITUTE A SEPARATE OFFENSE.

(3) IN ADDITION TO ANY OTHER SANCTIONS OR PENALTIES WHICH MAY BE IMPOSED PURSUANT TO LAW, A CARRIER OF SLUDGE SHALL BE SUBJECT TO CIVIL PENALTIES AS PROVIDED IN SECTIONS 40-7-112 TO 40-7-116.

40-16.5-108. Jurisdiction of courts. (1) THE DISTRICT COURT OR, WITHIN ITS JURISDICTION, THE COUNTY COURT OF ANY COUNTY IN OR THROUGH WHICH ANY CARRIER OF SLUDGE OPERATES HAS JURISDICTION IN ALL MATTERS ARISING UNDER THIS ARTICLE ON ACCOUNT OF THE OPERATIONS OF SUCH CARRIER OF SLUDGE.

(2) IT IS THE DUTY OF THE DISTRICT ATTORNEY FOR THE COUNTY HAVING JURISDICTION TO PROSECUTE ALL VIOLATIONS OF THIS ARTICLE.

40-16.5-109. Review of article. DURING THE 1999 LEGISLATIVE SESSION, THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE AND THE SENATE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE SHALL JOINTLY REVIEW THIS ARTICLE. THE PUBLIC UTILITIES COMMISSION SHALL PROVIDE THE INFORMATION NECESSARY FOR SUCH REVIEW. THE PURPOSE OF SUCH REVIEW SHALL BE TO DETERMINE WHETHER TO CONTINUE THE PERMITTING OF CARRIERS OF SLUDGE AS SET FORTH IN THIS ARTICLE.

SECTION 2. Part 5 of article 22 of title 39, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-519. Tax credit for book value of certificate for carriers of sludge.

(1) FOR INCOME TAX YEARS COMMENCING ON AND AFTER JANUARY 1, 1994, THERE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED PURSUANT TO PART 3 OF THIS ARTICLE FOR EACH TAXPAYER BASED UPON THE BOOK VALUE AS OF JANUARY 1, 1994, OF A CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION FOR ANY PERSON OWNING, CONTROLLING, OPERATING, OR MANAGING ANY MOTOR VEHICLE USED IN SERVING THE PUBLIC IN THE BUSINESS OF THE TRANSPORTATION OF SLUDGE. THE AMOUNT OF SAID CREDIT FOR ANY INCOME TAX YEAR SHALL NOT EXCEED ONE-FIFTH OF THE BOOK VALUE AS OF JANUARY 1, 1994, OF SAID CERTIFICATE. FOR PURPOSES OF THIS SECTION,

"BOOK VALUE" MEANS THE COST OF THE CERTIFICATE LESS ACCUMULATED DEPRECIATION.

(2) THE CREDIT ALLOWED BY THIS SECTION FOR ANY INCOME TAX YEAR SHALL NOT

EXCEED THE TAXPAYER'S ACTUAL TAX LIABILITY FOR SUCH TAXABLE YEAR AND NO TAX CREDIT IN EXCESS OF THE TAXPAYER'S ACTUAL TAX LIABILITY SHALL BE ALLOWED TO BE CARRIED FORWARD TO ANOTHER INCOME TAX YEAR. IF A TAXPAYER ELECTS TO CLAIM A TAX CREDIT PURSUANT TO THIS SECTION, SUCH TAXPAYER SHALL NOT BE ALLOWED TO FURTHER DEPRECIATE THE BOOK VALUE OF THE CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION.

(3) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 1999.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1994